

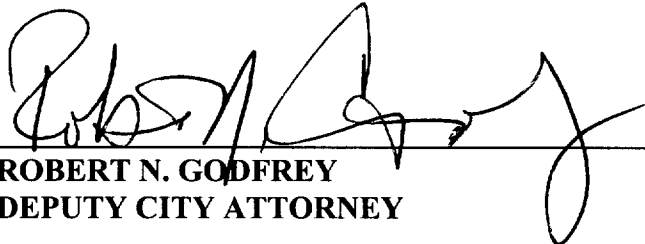
Entered - 03/28/02 - sb
CL02L0257 - DIANNE C. MITCHELL

CLAIM OF: **TINA CUNNINGHAM,**
through her attorney,
Kevin L. Ward
Suite 2700
260 Peachtree Street
Atlanta, Georgia 30303

02- *R* -0944

For damages alleged to have been sustained as a result of police misconduct on September 27, 2001 at 4650 ASR Road.

THIS ADVERSED REPORT IS APPROVED

BY: 

ROBERT N. GODFREY
DEPUTY CITY ATTORNEY

ADVERSE REPORT

COMM: *Public Safety*
DATE: *5/28/02*
CHAIR: *[Signature]*
Atalapha Archibald
G. J. Martin
[Signature]
[Signature]
Carla Smith

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 02L0257

Date: May 8, 2002

Claimant /Victim TINA CUNNINGHAM
BY: (Atty) Kevin L. Ward
Address: Suite 2700, 260 Peachtree Street, Atlanta, Georgia 30303
Subrogation: Claim for Property damage \$ Bodily Injury \$ Not Stated
Date of Notice: 03/25/02 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 09/27/01 Place: 4650 ASR Road
Department Police Division:
Employee involved Sgt. Travis Harvey Disciplinary Action: Employee Resigned

NATURE OF CLAIM: The claimant, a City of Atlanta police officer, alleges that her supervisor, Sgt. Harvey, made unwanted sexual advances and physical contact towards her. The Office of Professional Standards conducted an investigation into the allegations and the investigation was "exceptionally closed" when Sgt. Harvey resigned. Furthermore, the City is immune from liability as set forth in O.C.G.A. §§ 36-33-1 & 36-33-3.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police X Dept Report Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver


BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months Other X Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01 2P01
Claims Manager:  Concur/date 05-13-02
Committee Action: Council Action

MITCHELL
03/28/02
AGES

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK

City Hall
55 Trinity Avenue, SW
Atlanta, Georgia 30303

RE: CLAIM FOR DAMAGES

Today's Date: 03/25/02

MUNICIPAL CLERK

ENTERED 03-28-02 - DP
02L0257 - DIANNE MITCHELL

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount of \$ 0 property and/or \$** bodily injury for which I contend the City is liable. **to be determined by a jury

1. Date of incident: 09/27/01 2. Time of incident: 2:50 pm 3. Police called Yes Incident/CICA No. 012721244
4. Location of incident (including street address): City of Atlanta Police Department Precinct Office, 4650 ASR Road, Atlanta, GA 30320
5. Name of your insurance company: Not applicable Policy No. _____
6. State what and how incident occurred: Please see attached Exhibit "A"

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. **The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle.**

Your vehicle: Not applicable
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: _____
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: Sergeant Travis Harvey, Officer Patrick Dubney, Officer Robert Roberts,
*see bottom of page for additional witnesses
10. The acknowledgement of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).
11. **Claims must be received within 6 months from the date of the event.**

I HEREBY SWEAR OR AFFIRM THAT THE
ABOVE INFORMATION IS TRUE AND
CORRECT.

Tina Cunningham
Signature of Claimant

Tina Cunningham
(Print Claimant's Name)

c/o Kevin L. Ward, Esq.
~~Schulten Ward & Turner, LLP~~
(Address)

260 Peachtree Street/Suite 2700
Atlanta, GA 30303
(City, State and Zip Code)

*Additional Witnesses:

Officer Steven Fortner (404) 688-6800
Officer Carlos Serrano (Work Number) (Home Number)
Officer Jonnie Botts, Officer Michael Griffin, Officer Emmett Hill,
Officer Charles Ruffin, Officer Daryl Tate, Office Deborah Sousa,
Officer Jonathan Hacker, Officer Shirley Crenshaw

EXHIBIT A

State what and how the incident occurred:

Officer Tina Cunningham, a police officer for the City of Atlanta, assigned to the Airport K-9 unit, makes her claim against the City of Atlanta for physical, mental and emotional injuries and for the violation of her civil rights by Sergeant Travis R. Harvey, her supervisor with the City of Atlanta Police Department. Officer Cunningham was the victim of battery and sexual harassment by Sergeant Harvey and further claims that the City of Atlanta is liable for Sergeant Harvey's actions due to the City's negligent retention of Sergeant Harvey as an employee and supervisor of female employees.

At approximately 2:50 p.m. on September 27, 2001, Officer Tina Cunningham received a call from her supervisor, Sergeant T. R. Harvey, requesting that she come to the precinct. Upon arriving at the precinct, Officer Cunningham went into Sergeant Harvey's office. Officer Cunningham noticed that Sergeant Harvey's eyes were red as if he had been crying and asked him if something was wrong. Sergeant Harvey replied no and stood up and gave Officer Cunningham a hug. Sergeant Harvey then locked the back door to the precinct and grabbed Officer Cunningham by the wrist and pulled her through the precinct. Officer Cunningham asked where they were going and was told by Sergeant Harvey, "I got to show you something." Sergeant Harvey led Officer Cunningham into a room with duct tape covering the window, and locked them in. Sergeant Harvey then pushed Officer Cunningham up against a file cabinet and demanded that she "give him some." When Officer Cunningham said no, Sergeant Harvey continued holding her and repeated "Give me some." and "I've wanted you for a long time." several times over.

Finally, Officer Cunningham pushed Sergeant Harvey away and fled the room. As she left, Officer Cunningham heard Sergeant Harvey say, "Can I do it and watch you?" and "Can I eat your pussy?" Officer Cunningham left the precinct and reported the incident.

After the incident was reported Sergeant Harvey was reassigned to a different zone but never returned to work due to a motorcycle injury. Officer Cunningham remained afraid for her safety as it was well known at the precinct that Sergeant Harvey possessed several hundred weapons at his home and was militant and unstable. Officer Cunningham was advised by her co-workers not to return to her home and to wear her bulletproof vest. Although Officer Cunningham advised Internal Affairs Officers of her fears, during the investigation, Sergeant Harvey retained his key to the precinct and returned to clean out his office at least once. Sergeant Harvey also retained his key to the precinct storeroom that contained the precinct's supply of various explosives. After several months of investigation, Sergeant Harvey was allowed to resign from the Atlanta Police Department, with his full pension and payment of his accrued vacation pay, on December 17, 2001. The investigation of Officer Cunningham's complaint was exceptionally closed effective December 20, 2001.

02- R -0944